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On Innocence Lost: How Children Are Made Dangerous¹

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Abstract

This article explores continuities of despotism within liberal governance. It introduces recent government investments in the need to protect children from institutional and organisational abuse in the context of which loss of innocence is conceptualised as a moment in a biography, following exposure to violence. The article contrasts those investments with contemporaneous claims by the state that as other-than-innocent, certain children in its care are legitimately exempted from moral-ethical norms embedded elsewhere in the logic of governing childhood proper. The article turns to historical understandings of the welfare of children in the state of Victoria, Australia, to explore the conditions and the means by which children in state care came to be figured as other-than-innocent exceptions, rightly exposed to forms of authoritarian violence. Loss of innocence is explored as an enduring achievement of government in the context of aspirations to do with population, territory and national security.

Keywords

Child categories; criminality; science; population; authoritarian liberalism.

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Introduction: Innocent children and others

In 2013, the Victorian state government established a parliamentary committee, the *Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations* (henceforth, Inquiry; for further information, visit Parliament of Victoria's Committees website at <https://www.parliament.vic.gov.au/fcdc/inquiry/340>). This inquiry exposed evidence of the failure of such organisations to adequately prevent and respond to the criminal abuse of children. A range of organisations 'had taken steps with the direct object of concealing wrongdoing' (Victorian Government 2013: Executive Summary xxvi). The Inquiry provided the opportunity for the personal experiences of victims to be publicly acknowledged, noting that victims said 'they were seeking justice for what they often felt to be the loss of their innocence as a child' and acknowledged the 'unjustified guilt' they carried (Victorian Government 2013: Executive Summary xxvii-xxviii). Most events were 'perpetrated more than twenty years ago', but organisational and individual responsibility could not be relegated to the past (Victorian Government 2013: Part A Introduction and Process 4). Thus, the past was to be opened for historical scrutiny, but the 'child' at the centre of the Inquiry was not: no official definition of the entity 'child' was offered. The Inquiry asked how, given this entity, non-government organisations had failed to act appropriately.

That same year, the Australian federal government's Royal Commission into Institutional Responses to Child Sexual Abuse (henceforth, Royal Commission) was launched (for more information, visit <https://www.childabuseroyalcommission.gov.au/>). It would take evidence from a wide range of non-government and government bureaucracies, agencies and institutions, including child protection agencies and it noted that juvenile justice centres were 'institutions for the purpose of the Terms of Reference' (Australian Government 2013: 14). The Royal Commission abided by the definition of 'child' provided by the 1989 United Nations *Convention on the Rights of the Child*, of which Australia is a signatory: 'a person below the age of 18 years' who is both the bearer of human rights and one who, it is recognised, 'may need special care and attention where adults may not' (Australian Government 2013: 2, 13). In April 2013, the Royal Commission opened at the County Court in Victoria. As with the Victorian Inquiry, considerable media coverage and commentary were given to the attempts of organisations, including the Catholic Church, to conceal abuse. In regional Victoria, a retired bishop's admission that he 'didn't do enough' was derided in the press: 'He actually did plenty—all of it wrong and all of it sacrificing the innocence of the child for the reputation of the Church' (Marshall and Lee 2016). At a Sydney hearing of the Royal Commission, criticism of the Church hierarchy by an expert in cardinal law from the United States was met with 'loud applause': '... there's no office in the Catholic Church or anywhere else so important that it justifies sacrificing the welfare of one innocent child. Period' (McCarthy 2017). One effect of these inquiries has been to bring to the fore the 'innocent child' as the unqualified fixed point against which the guilty history of various individual and administrative crimes and misdemeanours is judged. At the time of writing, the Royal Commission had yet to focus on juvenile justice centres. Nevertheless, by late 2016 the treatment of children within Victoria's juvenile justice system would come under scrutiny.

Following a reported 'riot' in November 2016, the Victorian state government transferred 15 juvenile detainees from its 123-bed juvenile justice facility at Parkville in Melbourne to a wing of its adult high security prison at Barwon in regional Victoria. The move was met by a legal challenge on human rights grounds, and the Victorian Supreme Court ruled it was illegal to house juvenile detainees in an adult facility. The government held firm noting that, given it had recently gazetted part of the prison as a youth justice facility and remand centre and had since improved facilities there, it had addressed the Court's concerns (Victorian Government 2017). In January 2017, further trouble at Parkville saw the deployment of police dogs and another seven Parkville detainees were transferred to Barwon and to the Malmsbury Youth Justice Centre in regional Victoria. Later that month, following a 'mass break-out' from Malmsbury of 15 detainees, all under 18 years of age, the state government announced plans for a new 'fit-for-purpose' high security

youth detention centre (Nightingale 2017). The state government later confirmed that staff from the adult prison system, equipped with extendable batons and capsicum spray, would be deployed at the Malmsbury and Parkville juvenile justice centres. It confirmed shortly thereafter that capsicum spray had been authorised and deployed against juvenile inmates held at Barwon. Moreover, tear gas had been used at Malmsbury (Nightingale 2017).

Media reports of unrest in the juvenile justice system ran simultaneously with those of a 'youth crime wave' involving armed robberies, home invasions and car-jackings attributed to the so-called 'Apex gang', understood as primarily Sudanese in its make-up but more recently inclusive of Pacific Islander and 'Caucasian' members. Connections were quickly made in the media between the juvenile justice centre 'riots' and the 'crime wave' (Wallace 2016: 13).

Further connections were forged between these activities and broader political concerns about national identity, border security and immigration. According to a conservative social and political commentator in different forms of the media, a 'growing trend of out-of-control South Sudanese youth' revealed an 'obvious truth' about Sudanese refugees, vindicating moves by a conservative federal government a decade earlier to reduce its intake of refugees from Sudan and Somalia and reinforcing the veracity of a 'culture clash' (Bolt 2016). The Victorian Opposition Leader, Matthew Guy of the Liberal Party, stated that those who were not Australian citizens had 'worn out their welcome and should be deported' (Guy in Farnsworth and Wright 2016). A police spokesperson confirmed that a number of Apex members had been deported through an 'established process with the Australian Border Force' (Woods 2017).

The Victorian state government's response to unrest in its juvenile justice centres was, it admitted, 'confronting', but counsel for government argued in court that the rights of those at Barwon 'were not limited', and '[e]ven if they were, there was a clear case of justification' given they had 'the size and strength of men': 'We're talking about 16- and 17-year-old boys, we're not talking about young children' (Hall 2016: 6). The Victorian Premier noted the government was 'dealing with a group of violent offenders that the youth justice centre was never meant to deal with', and with behaviour 'more akin to the sorts of events and experiences that prison officers are trained to deal with' (Noonan 2017). Other stakeholders were more pointed, with a Police Association spokesperson noting: 'People that commit armed robberies, assaults and car jackings to escape custody are not kids whatever their age ... They are dangerous criminals that need to be arrested quickly before they can cause further harm' (Preiss 2017). These, then, are not innocent children. Indeed, in their offending, they are not children at all—nor, suggestion would have it, are they *our* children—and hence they can justifiably be excluded from the kinds of protections afforded those who inhabit childhood proper.

The above sketch is introduced to juxtapose two different but contemporaneous investments by government in the category of child. *Here* 'child' is afforded an apparent inviolable stability around which government must operate. Simultaneously, *there*, 'child' is up for grabs.

We suggest that we are dealing here with something beyond a simple case of the government of the day saying one thing—committing to the rights of children—and doing another. Drawing on recent conceptual frameworks developed to examine powerful events in terms of 'authoritarian liberalism', we suggest that the argument that certain groups of juveniles constitute legitimate exceptions to laws relating to the welfare of children has served as an enduring rationale in the formation of the practices of child welfare in Victoria. These frameworks have focussed on certain arts of liberal governing—with its injunction to govern through freedom—that attempt to specify the content of individual freedom and turn it to various goals (Valverde 1996, Dean 1999, 2002; Foucault 2008; Hindess 2001, 2004). In exploring 'the persistent co-existence' of despotism and 'liberal modes of moral-ethical governance', Valverde (1996: 358) has drawn attention to the complex interplay between technologies of government (the application of know-how according to which populations are governed) and governmental rationalities (the logics according to which

populations are thought and acted upon). The relationship between government technologies and rationalities is not 'equivalent to that between material practices vs. paradigms or discourses', nor is one simply an implementation of the other, and nor is there a 'one-to-one relation between the two'. (Valverde 1996: 358). Attention to 'actually existing liberalism' (Hindess 2008: 52) shows that a particular technique may be differently articulated with different rationalities (Valverde 1996: 358).

Valverde (1996) argued that, by being 'geographicalized', a particular mode of government 'avoids being judged by the standards of a neighbouring but distinct space', an avoidance furthered by the naturalisation of distinct 'types' who are understood to lack the capacity for rational, autonomous self-rule. Under liberalism, freedom to make choices is granted to those 'who can be trusted to make the right sort of decision' (Valverde 1996: 358). By this account, all children become the legitimate subjects of less liberal rule, given that they are all in-the-making, so to speak. But, recent events within the Victorian juvenile justice scene reveal that some are recognised as types lacking what might be termed an ideal biddability: an 'innocence' necessary for the inculcation of habits of self-restraint as a precondition of the granting of the freedom of self-government. In the context of these events, we were reminded that the government was dealing with a group of atypical 'hardcore' juveniles (Brown 2017: 2).

This article turns to historical understandings of the welfare of children in the state of Victoria, Australia, to explore key continuities of despotism within liberal governance. Taking the infant in state care in the late nineteenth century as our point of purchase, we explore the conditions which made it possible for particular cohorts of children to be afforded the status of 'exceptions', and the complex interplay between technologies and rationalities of government by means of which they were excluded from the application of moral-ethical norms embedded elsewhere in the logic of governing childhood 'proper'. Loss of innocence is explored as an achievement of government in the context of a range of aspirations to do with population, territory and national security.

Conditions of possibility: Innocence of 'infants in arms'

In 1875, the last of Victoria's large, state-run industrial schools opened its doors at Royal Park in Melbourne. It operated under the 1864 *Neglected and Criminal Children's Act* (Vic) and according to the one set of regulations pertaining to both industrial and reformatory schools (Jaggs 1986; Scott and Swain 2002). Superintendents operated within a military-style chain of command under an Inspector-come-Head-of-Department who oversaw a centralised timetable incorporating 'three musters daily'. Punishments ranged from forms of deprivation, such as meals limited to bread-and-water, through to corporal punishment. For repeat offenders, 'no more than twelve stripes ... on the hand or breach with a leather strap' were regulated, though there was room for the Inspector to authorise 'heavier punishments' if required. Nevertheless, as prescribed by the 1864 Act—and as magistrates needed to be frequently reminded—'children under sentence to a Reformatory shall not be received into an Industrial School, or vice versa' (Victorian Government 1873).

Even before it opened, plans for the Royal Park Industrial School were recognised as out of keeping with the spirit of contemporary thought regarding the unsuitability of children to institutional life and counter to the government's recent commitment to 'boarding out'. In the few short years of its existence, the school functioned primarily to receive this or that cohort of children as older industrial schools closed (*Argus* 1879: 7; Victorian Government 1879: 13). By 1878, in the wake of a break-out from the state-run Jika Reformatory at Pentridge, industrial schools and reformatories had come under new scrutiny (*Argus* 1880; Victorian Government 1880b). An amendment to the *Neglected and Criminal Children's Act 1864* (Vic) —*Neglected and Criminal Children's Amendment Act 1878 (1879-1888)* (Vic)—aspired to a clearer bifurcation of the population administered under the Act to better protect 'orphans' from 'young thieves' (*Argus* 1880: 7). New regulations specific to industrial schools, including the mandating of opportunities

for 'play', saw an attempt to move away from prison-like regimentation for industrial school inmates. Recommendations were made for the orderly boarding out of children via the formal establishment of a 'depot' (Victorian Government 1880a).

'Infants in arms' was the first cohort to be sent to Royal Park Industrial School, which had its own 'Receiving House' a short distance away (Victorian Government 1865). By 1878, though the Industrial School was losing 'strength', the Receiving House was clearly being used as a central transit point for a range of girls under state care, and for infants, either committed as 'neglected' or on 'remand'. That year, a 'visitor' from the *Argus* newspaper to Royal Park reported that, in the Receiving House, he found infants in a 'snug and home-like environment', biding their time 'languidly sucking warm milk-and-water through flexible tubes', before being put out to wet-nurse. Down the road at the Industrial School, the visitor was more ambivalent about what he saw: the barrack-style accommodation was not 'a home to which young creatures might reasonably be expected to attach themselves'. Notwithstanding, the food was excellent, the place 'scrupulously clean', the grounds pleasant, and the matron kindly. Girls under state care and older infants of both sexes were housed there. The girls 'are as well off and comfortable as could reasonably be expected, in the circumstances in which they find themselves'. Moreover:

the little toddling weans who are numerous among them display in their manner a certain confidence that they will be indulged and borne with, and a fair share of that pettishness which of right belongs to their contemporaries who have the better luck to be under their father's and mother's care, to spoil or otherwise.
(*Argus* 1878: 9)

By 1880, the Royal Park Industrial School had ceased to exist but there remained what was now officially a sole central depot for the reception and disposal of those on remand or committed as neglected, and which would serve for several decades as the only state-run institution for children in state care (Victorian Government 1883: 10). In 1887, Parliament passed two separate pieces of legislation, the *Juvenile Offenders Act* (Vic) and the *Neglected Children's Act* (Vic), hailed as allowing for a clearer 'line of demarcation ... to save any possible contamination from bringing children of actual criminal tendencies into contact with those who have been, after all, only unfortunate' (Victorian Government 1887: 434). In its report to the Department, one of the official Visiting Committees congratulated the government on 'dealing with the criminal and the purely unfortunate children in separate Acts' and hence removing the permanent 'stigma' caused by the 'perfectly innocent' being committed to the care of the state in the same Act as 'those who have been convicted of a crime' (Victorian Government 1887: 18).

The new legislation did not, however, live up to expectations. In 1890, a Charities Commission visit to the Royal Park Depot (henceforth, Depot) found young offenders 'lodged amongst children untainted by crime' (Victorian Government 1890: 2038). The long-held aspirational bifurcated classification of the innocent and the offending had become a confused mess. But, in its midst, the infant cohort remained creatures of fate at the pole of untainted innocence.

From the time of its establishment, infants entered the Depot the hapless victims of misfortune, of human frailty, fecklessness, or greed. An inquest found that a 16-year-old mother had placed her child with a nurse for a fee. The child, suffering 'marasmus' (that is, undernourishment causing weight to be significantly low for age) caused by 'artificial nourishment', was taken to the Depot where it died from 'insufficient food' (*Argus* 1893: 3). A woman paid for a baby and then promptly abandoned it. She was imprisoned and the child deposited 'very weak' at the Depot (*Argus* 1890: 4). A newborn was found on a doctor's doorstep with a note pleading shelter 'for her broken-hearted mother's sake': "I am on the brink of starvation, and cannot bear to see my child die for want of the necessaries of life. Be kind to her, and God will reward you ..." The Bench remanded the child to the Royal-park Home for Neglected Children' (*Argus* 1897: 6).

While there was clearly consternation over the plight of infants abandoned, neglected and/or prey to the unscrupulous, there was, in the years leading up to the twentieth century, little scrutiny of their fate after entering the Depot, neither in the press nor in the Department's annual reports. Approaching the twentieth century, the functioning of the Depot was articulated as so unproblematic that it was hardly cause for comment. In 1898, Secretary Millar reported that the Depot's 'usual routine ... has been carried out satisfactorily', and, '[a]part from what may be almost called an epidemic, which carried off several of the infants during the hot weather ... the general health of the inmates has been good' (Victorian Government 1899: 5). In 1900, the Depot was again reported as functioning satisfactorily according to its 'usual routine' and, amongst the infant cohort, 'as usual', marasmus, congenital ailments and an outbreak of measles resulted in 'many of the more weakly ones being carried off'. In 1901, there was 'nothing worthy of note', though it was noted that 12 infants died from marasmus and congenital disease, and another one from pneumonia. In 1902, the work had been 'carried out on the usual lines and does not call for comment' (Victorian Government 1901: 5, 11, 1902: 10, 1903: 4). At the turn of the century, it was life *and death* 'as usual' for infants at the Depot, the high death rate attributed to their being received in a 'dying state' and 'carried off' by the contingencies of epidemics and/or hot weather. If the infant, on arrival at the Depot, was innocent of its plight, so—largely, it would seem—was the administration as to its fate thereafter.

By the middle of the first decade, morbidity and mortality amongst infants *had* become a problem, the Departmental report underscoring the 'urgent' necessity 'of providing isolated accommodation for infectious cases in connexion with the nursery' (Victorian Government 1906: 10). Reports thereafter repeated calls for new, 'badly needed' nursery facilities for sick infants (Victorian Government 1909: 18). Up until 1911, no more than a few piecemeal improvements for infants were supplied by the government. In 1911, a delegation of 'lady doctors' under the auspices of the National Council of Women visited the Depot and it is worth comparing their account with that of the visitor, in the same newspaper, some three decades earlier. Recall the 'languid' sucklings and 'toddling weans' he found amongst older girls, all contented and well-cared-for in the main. The sight *now*, before these doctors' eyes, is 'appalling':

Some of the children suffered from a loathsome disease, yet they were allowed to kiss one another without any regard to the risk of infection. ... The sight of a girl 13 years old adjusting bandages around the head of a child having open running sores and then cutting bread without even washing her hands was too awful for contemplation. (*Argus* 1911a: 5)

We cannot simply assume that conditions had deteriorated at the Depot since the 1878 visitor's assertion that children there were 'as well off and as comfortable as could reasonably be expected'. The phrase hardly provides an extra-historical marker for comparison and might just as well suggest a certain progressivism at work: in 1878, all was thought well enough for *these* children; by 1911, not so? Further, the science of infection and contagion had developed and the laboratory science of 'bacteriolysis' had fast, if unevenly, gained authority (*Intercolonial Medical Journal of Australasia (IMJA)* 1908b). These later *medical* observers may well have seen as dangerous that which was once viewed as perfectly innocent. But, an acknowledgement that the early twentieth century doctors' understandings of infection and contagion was more scientific than, say, the lay observer of 1878, is not the same as the assertion that it is *less* formed out of broader social and cultural understandings. Sociologists of science have long argued that the laboratory is not clean of the stuff of everyday understandings but, instead, is a complex site of intersection in which the products of previous scientific know-how meet socially sanctioned knowledge, political agendas to do with the maintenance of social order and, indeed, administrative imperatives to do with managing particular populations (Knorr Cetina 1999; Latour and Woolgar 1979; Lynch 1993). These flow into the laboratory along with the paraphernalia for testing and with that to be tested, providing the language and the logic out of which science fashions its questions. As Knorr Cetina has noted, it is also into this heterogeneous

mix that laboratory results will return: 'In short, they create new configurations of objects that they match with an appropriately altered social order' (Knorr Cetina 1999:43-44). By the beginning of the second decade of the twentieth century, a new infant had emerged, whose mortality *had* become an administrative problem. A closer look at the science of infant welfare may well cast light on the shifting logics which allow for the possibility of refiguring the infant in state care as other than that innocent but unfortunate creature of fate whose *life-or-death* was of little concern to the state.

The science of infant life and death

Between the late 1880s and the first few years of the twentieth century, there was a significant decline in the nation's overall rate of population increase: it fell from over three per cent in the late 1800s to a little over one per cent in 1903 and, although rates varied from state to state, these figures were largely reflected in Australia's two most populous states, New South Wales (NSW) and Victoria (Hicks 1978: 133-137). In August 1903, the New South Wales Premier appointed a Royal Commission under the chairmanship of Dr CK MacKellar (MacKellar Royal Commission) to investigate the matter—or rather to investigate the assumed cause, namely a decline in the birth rate 'and the effects of the restriction of child-bearing on the well-being of the community' (NSW Government 1904: iv). The main conclusion of the MacKellar Royal Commission served as little more than confirmation of the terms of reference—that the reduced birth rate *was* a consequence of voluntary limitation of births via abortion or contraception. Further, it was motivated by (in particular, women's) 'selfishness' in acting, via far too available means, to put their own want of 'social pleasures' and 'comfort' above their duty to the wider community and, indeed, to the well-being of the nation and the 'safety of the race'. The evident 'decay of individual and social morality' led to a decline in numbers and threatened 'all those qualities which have made the British race predominant' (NSW Government 1904: 17, 52-53).

The MacKellar Royal Commission *may* be seen as little more than a politically motivated exercise in containment. Hicks (1978: 2) noted that the population question, already 'in the vanguard of public discussion' was threatening to become a political campaign. The fiscal situation prevented other solutions like increased immigration, but 'an inquiry into the natural increase problem would entail few political risks and appear as a politically disinterested attempt at moral reform and might effectively shelve population problems for several months' (Hicks 1978: 4). Witnesses were led brazenly, evidence bent or ignored to confirm a finding already prescribed in the terms of reference, and scientism was favoured over rigorous statistical science (Hicks 1978: 18-31). Garton (1986), in contrast, used the MacKellar Royal Commission as a focal point to underscore something of the complexities of the connections between science, social movements and government. He was critical of a form of historicism which would have a pre-war flourishing of an environmentalist pronatalism cast aside by eugenics in line with a broader shift in 'social climate'. Science, by inference, was cast as little more than a handmaiden to this or that ideology. For Garton, the career of the MacKellar Royal Commission's Chairman—a renowned environmentalist who would eventually publish a eugenics-inspired work—served as exemplary of a 'coherent marriage' of both environmentalist and hereditarian views. These, Garton argued, emerged from the common ground of a disenchantment with *laissez-faire* liberalism in the context of a perceived increasing threat of social chaos and a new and genuine investment in 'preferably systematic and scientific state intervention' (Garton 1986: 24). As Garton argued in later works, neither environmentalists nor hereditarians simply took what suited from a politically manipulated 'science' (Garton 1994). Nor should the success of one or the other ideology be measured simply by the prominence and numbers of its advocates, and nor should 'failure' be measured by the absence of significant legislative reform, for 'innovation without legislative sanction was always possible' (Garton 2010: 244). Headway could be gained in the 'interstices' of bureaucratic and institutional practices (Garton 2010: 251). With the above in mind, we look here to some of those more dispersed effects of the MacKellar Royal Commission.

Some months into the proceedings, the Chairman proposed and the MacKellar Royal Commission formally requested an extension of the original terms of reference to include infant mortality 'and its relation to the prosperity of the State' (NSW Government 1904: 1). Hicks noted that the Commission more or less 'strayed into the area' via the problems of abortion, infanticide and illegitimacy (Hicks 1978: 12). The final report cited statistics showing that, over the preceding three decades, the infant mortality rate 'has been a fairly level one' with a ten-year mean of 110.6 deaths per thousand for infants under 12 months. The mortality of illegitimate infants was, however, '2 $\frac{3}{4}$ times that of legitimates'. Though subject to fluctuations, this rate, too, had 'neither increased nor decreased.' Not surprisingly, given the original terms of reference, a number of moral deficits on the part of the mother, and particularly on the part of the unwed mother, were listed as causes—indifference, secret adoption for gain, infanticide—all serving to bolster the perception that the population problem was primarily a moral problem. Some attention was, nevertheless, given to issues for which state administration had to take responsibility, including the quality of the milk supply, insufficient maternity and infant hospital accommodation, and the 'defective management' of institutions receiving illegitimate infants. One case was cited of a North Shore Foundling Home in which, of the 529 infants admitted over four years, 423 died. A number of recommendations including bolstering state control and inspection of relevant agencies was made (NSW Government 1904: 36-43). Overall, however, the problem of infant mortality was firmly positioned as an aside to, and separate from, the main problem of the decline of the birth rate. At times the MacKellar Royal Commission expressed ambivalence as to whether deaths amongst illegitimate infants were a problem at all. According to actuary and 'statistical expert', J Trivett, figures showed 'that after the first year of life the death-rate of illegimates compares very favourably indeed with the legitimate death-rate.' MacKellar interrogated him on the point:

Q. That would seem to indicate, to my mind, that the weakly ones among the illegimates died early, and those who remained were of a more robust constitution? A. Yes.

Q. In fact that the treatment the illegitimate infants received had weeded out the weakly ones?

A. It shows that if they survive the suckling age they are quite as good lives as the legitimate.

Q. Better?

A. The tendency is to be better; but I should say at least as good.
(NSW 1904, Appendix: para 6811-6814)

On one point, Trivett was adamant: there was *no* direct connection between birth rates and infant mortality rates (NSW Government 1904, Appendix: para 6664). This became a sticking point for the NSW MacKellar Royal Commission, arising from the testimony of the Victorian Government Statist, W McLean. McLean argued that the assumptions embedded in the Commission's terms of reference were flawed in that they failed to take into account fluctuations in the age constitution of the population, due largely to fluctuations in migration. Hence, the decline in the birth rate was 'due more to natural than to artificial causes' and he saw no justification for the kind of alarm that had engendered the NSW Commission. Moreover, a high infant mortality was 'intimately associated with a high birth-rate' for the 'obvious reason' that the death of an infant, 'if it does not facilitate, certainly does not present any obstacle to conception'. McLean cited material on international trends which showed countries 'with the greatest infantile mortality are those which possess a high birth-rate'. In some countries with a high birth rate, 'so great is the mortality per 1,000 births that the ultimate gain ... is in some cases below that of the low birth-rate countries.' The problem of infant mortality had not 'received the consideration its importance deserves' (NSW Government 1904. Appendix para 5847-51; 5919; 7646-7; 6843-52; Hicks 1978: 133-156).

Not surprisingly, given that McLean's arguments undermined its very *raison d'être*, the MacKellar Royal Commission declared in its final report that no effect on the birth rate was 'traceable to variations observed in infant mortality as has been suggested by the Government Statist of Victoria' (NSW Government 1904: 13). McLean, however, would pursue the point, publishing a rejoinder to the NSW Commission's findings in the Victorian-based *IMJA* and reiterating the importance of concentrating on infant mortality which had hitherto been 'almost entirely overlooked' (McLean 1904: 114).

One unintended effect of the MacKellar Royal Commission was that the infant, who mattered to the Commission as primarily a problem in so far as it was absent (not enough births), was rendered, via a statistical debate engendered by the Commission, as a presence (too many deaths). The Commission helped to generate a focus on the living infant as an entity central to the population problem, rendering the conditions of its life available for new forms of scientific scrutiny. In turn, new know-how in relation to the lives of infants would emerge from the laboratory, rendering the infant available to a range of rationalities, simultaneously environmentalist and hereditarian, pronatalist and eugenicist in their orientation.

Milk and syphilis, purity and danger

Two things in particular caught the eye of the doctors during their 1911 visit to Royal Park Depot. One was the shoddy practices that facilitated food contamination. Though they made no specific reference to infant feeding at the Depot, attention was drawn by one of their number at the same meeting 'to the terrible milk supply, and to the fact that it did cause infant mortality' (*Argus* 1911a: 5). The other was the presence of children suffering from a disease so 'loathsome' it was not named. From the middle of the first decade of the twentieth century, milk supply and syphilis were twin themes through which the life and death of the infant population, and more particularly of the poor and illegitimate infant—the cohort under state care—would be addressed.

In 1908, a proposal was presented to a special meeting of the Victorian Branch of the British Medical Association (BMA) to discuss the question of Melbourne's milk supply, introduced in the context of 'the great cry at the present time ... for more population'. While immigration was one solution, 'surely the preservation of infant life was of equal importance ... and ... by providing an establishment for a safe milk supply, the mortality would be very much lessened' (BMA 1908: 277). An experiment of limited scale was proposed, involving harnessing the resources of 'the Bacteriology laboratory at the University' to produce pasteurised milk which would be stored and distributed under the scientific direction of the Agricultural Department (BMA 1908: 268). Here, unpasteurised milk enters the laboratory already firmly attached to the specific problem of infant mortality and the umbrella problem of population. Likewise, pasteurised milk flows out of the laboratory newly charged with the potential to disrupt long-standing orthodoxies. Causes of infant mortality, such as 'summer diarrhoea', once considered beyond the bounds of human control, were in the process of being firmly re-situated as well within the bounds of ordinary human administration, as long as that administration was governed by scientific expertise. Children's specialist A Jeffreys Wood had conducted his own laboratory experiment at Berry Street Foundlings Hospital and explained the strict protocols of the pasteurisation program there. Infants' general condition had improved and the institution had since 'not had a single case of summer diarrhoea amongst the bottle-fed babies'. Given proof that such deaths were preventable, 'we would be singularly lacking in our duty if we continue to let children die in our community during the summer months' (BMA 1908: 264).

Jeffreys Wood reiterated statistics brought to light via the NSW MacKellar Royal Commission and circulated since in Victoria, which revealed that the death rate amongst illegitimate children was 'three times greater than amongst the legitimate children'. (Jeffreys Wood 1908: 135). Hence, tackling infant mortality amongst the institutionalised illegitimate cohort was a means of tackling the 'great and ceaseless loss of the most valuable of all national assets' (Jeffreys Wood 1908: 128).

Every child, Jeffreys Wood asserted, entered the world 'full of fresh potentialities; everything good and fair is possible to each child as it opens its eyes on this world ... and every child has a right to demand by all the laws of God and Nature a fair chance'. He concluded:

I have often heard with anger the saying, it is just as well the poor little diseased child died, as if all the illegitimate children were not healthy at birth. A small percentage of them have inherited from their parents a constitutional weakness, but my experience is that the percentage of this class of children is small. (Jeffreys Wood 1908: 141)

The goodness and pure misfortune of the illegitimate infant is reinforced. Nevertheless, there is a moment of instability. The investment in the illegitimate infant as a valuable national asset, *aside from a small percentage*, is dependent on statistics. Yet to be answered was the question of just how small that percentage was.

At the time of Jeffreys Wood's address, 'inherited syphilis' was emerging as a major (for some, the main) cause of inherited constitutional weakness in children. As with milk, at the close of the first decade of the twentieth century, syphilis became the focus of laboratory science already attached to the population problem, though at first this was expressed in terms of its negative effect on fertility and birth rate. In 1907, outgoing President of the Medical Society of Victoria, MU O'Sullivan, cited international statistics which, he claimed, revealed the disease, along with abortion and contraception, as a major contributor to the decline in the birth rate and to 'the decadence of national power and strength'. It had to be shunned to avoid 'the dark pits of race suicide' (O'Sullivan 1907: 57, 74). O'Sullivan was criticised by the *IMJA* for his 'tendency to impinge on the sensational' (*IMJA* 1907a: 103). Syphilis was, nevertheless, acknowledged as a legitimate enough subject of concern to be the major topic for the 1908 General Session of the Medical Congress, with the question of 'the extent of existing syphilis' at the fore (*IMJA* 1907b: 350).

The problem of determining rates of syphilis was confounded by the difficulty of diagnosis. In adults, initial tell-tale lesions could disappear, the disease manifesting itself perhaps years later via disruption of the function of any bodily organ. Doctors' reliance on patients' recollection of symptoms forgotten or denied rendered 'worthless' the 'common entry in case-books, "No history of Syphilis"' (Allen 1909: 113). How was a doctor to determine 'true syphilitic cases' from, say, simple cases of 'gastric disturbance'? A child presented with blood in his urine—'perhaps' a case of syphilis? The mother, after all, had two miscarriages. The standard mercury treatment was suggested (*IMJA* 1908a: 13). The occult nature of the disease made any accurate determination of infection rates impossible and, post-Congress, the *IMJA* noted: 'Very considerable difference of opinion was manifested' with eye, skin and children's specialists considering it 'rife', those representing medicine and surgery being 'more guarded', and mixed opinion amongst those representing pathology (*IMJA* 1909c).

Although little had firmed up in relation to the rates of infection, the Congress succeeded in bringing the problem of *congenital* syphilis to the fore. It would hear from a range of specialists 'that the main mortality of children from slight causes is due to inherited syphilis' (Allen 1909: 117-118), that 'very little syphilis' presented itself at the Children's Hospital in the mid-1880s, but now there were 'signs of infection in about 30% of cases' such that one was 'not far from the truth in saying that fully 25% of the sick children in Melbourne are tainted with syphilis' (Bennie 1909: 119-120). *Congenital* syphilis, a 'serious danger, not only to the infected person, but also to society generally, and to the nation', was particularly elusive and a campaign was urged to end the complacency that had 'allowed an enemy to creep surreptitiously in our midst' (Davidson 1909: 136). Though purely paternal inheritance had been all but dismissed, across how many generations syphilis might travel remained an open question. Some would 'extend the treatment to the next generation; some would to the third', given 'authenticated instances of syphilis

acquired from grandparents' (Bennie 1909: 123). The *Argus* newspaper would note, in the wake of the 1908 Congress, that the disease was 'responsible for an enormous amount of illness, not only on the part of those who acquire the disease, but on the part of their wives or husbands ... on the part of children, and possibly the children's children' (*Argus* 1911b: 5). Regarding the infants themselves, though syphilitics may be born 'apparently healthy ... they have the taint nevertheless': 'The child is never free from infection ... He may have an outside very good, but a very bad inside' (Bennie 1909: 119-129). Out of the 1908 Congress emerged an infant endangered by syphilis, but also *in itself* a dangerous, but elusive, presence.

The growing interest in the 'hereditary taint' of congenital syphilis also enmeshed the discussion of the disease, its detection and its management, in a broader and growing interest in the detection and sorting of 'fit' and 'unfit' stock for the 'healthy propagation of the species'. The English Royal Commission into the Care and Control of the Feeble-Minded was also commenced in 1908, one effect of which was that feeble-mindedness could now edge closer to the normal from which it was distinguished, than the old general term 'lunatic' allowed. This made the less gross forms of 'mental defect' more difficult to distinguish, and hence more dangerous. In 1911, the Medical Congress devoted itself to the topic of hereditary defect in the form of feeble-mindedness, described by more than one speaker as, like syphilis, an 'evil in our midst' (Fishbourne 1911: 894; Sutton 1911: 889).

But, beyond the kinds of allusions and elisions that would see the congenital syphilitic closely associated with a broader population of the 'unfit', a more direct link was being forged at the 1908 Congress. The link between general paralysis of the insane (GPI) and syphilis had long been touted by such luminaries as Mott, but syphilis would be linked to 'more obscure affections of the nervous system' (Allen 1909: 115). A specialist in nervous diseases found 'an involved syphilitic factor in most of the children's diseases that [he] treated' (Bennie 1909: 126). The Medical Superintendent at NSW's Callan Park Hospital for the Insane noted that, among children, 'idiocy is a commoner result of the disease than is generally recognised'. Local and international statistics revealed that around ten per cent of cases of 'congenital mental deficiency' had syphilis as their 'specific origin' (Davidson 1909: 129-136). The similar problems of the congenital syphilitic and the mentally defective began to be explored as the *same* problem of heredity, the one lending charge to the other.

In 1908, a new means of knowing syphilis began to emerge from the laboratory. In March, Melbourne University bacteriologist, Konrad Hiller, published a reminder that, three years ago, *spirochaeta pallida* had been identified as, if not the cause of syphilis, a bacterium regularly found in syphilitic lesions (Hiller 1908a), and later that year published a detailed explanation of the new 'Wassermann's reaction' (Hiller 1908b). In February 1909, the *IMJA* pronounced the bacterium the 'true cause of syphilis' and the Wassermann test of 'great value' (*IMJA* 1909a). By mid-1909, the journal concluded that 'for the sake of clinical accuracy we should confine ourselves to the Wassermann reaction' (*IMJA* 1909b: 274).

Following the 1908 Medical Congress, plans were afoot for the mass testing of the Melbourne population at the instigation of the Chairman of the Board of Health, an exercise which would constitute 'the most extensive scientific investigation of prevalence conducted anywhere in the world' (Lewis 1998: 140-141). By the beginning of the second decade of the twentieth century, state hospitals for the insane were routinely applying the Wassermann test to samples from inmates displaying symptoms of GPI (Froude 1911: 913; Johnson and Wallace 1911: 934). Victoria's Inspector General of the Insane, Dr Ernest Jones, noted that, beyond its value in linking GPI to syphilis, the test had proved useful 'in another direction'; that is, for identifying congenital syphilitic infants 'in the depot of the Neglected Children's department at Royal Park' (*Argus* 1911c: 20). That year, the Depot's medical officer acknowledged the services of Hiller's laboratory for testing suspected cases (Victorian Government 1911: 18). From then on, testing 'suspect'

infants became standard practice, with the numbers tested increasing each year and, in 1913, every infant on arrival was 'invariably' tested (Victorian Government 1914: 18).

Recall the lady doctors' horror, in 1911, at the sight of congenital syphilitics at the Depot sharing kisses without restraint. Soon after, the Visiting Committee to the Depot noted that, in the context of 'reports that have recently appeared in the public press', the government, hitherto impervious to urgent requests for resources for sick infants, had made funds available for a nursery and isolation ward. The Depot's medical officer noted that, until the new funds were utilised, interim measures had been taken with 'every proved or suspected case ... isolated, and segregated ... in a large tent', though perhaps as much to assuage public anxiety as for medico-scientific reasons: 'It should be pointed out that only a small proportion of children, the subject of congenital syphilis, are capable of infecting others' (Victorian Government 1912: 7, 18).

Older cases were appropriately 'railed off securely' from the rest of the children and barred from attending school though, again, medical officers saw this as unnecessary on strictly scientific grounds (Victorian Government 1914: 7). At the Depot, mandatory and routine testing of its infant inmates added congenital syphilitic status to their being—it soon became imperative that via the Wassermann test they be known as syphilitic-or-not (though, given remaining vagaries associated with the test and uncertainties about the potential of treatments at the time to truly cure, infants could never certainly be 'not'). They were *all*, on arrival, suspect. What were, 30 years earlier, the innocent victims of happenchance, marked out from their contemporaries only insofar as the latter had 'better luck', had become the embodiment of a potential 'danger to others', and marked out and administered as such. By the early 1920s, all Depot inmates would, as a matter of course, be tested for syphilis (Victorian Government 1924: 4).

With the emergence of more effective cures, the alarm over the congenital syphilitic would wane (Lewis 1998: 232-3). But, by this stage, the laboratory had become what Latour refers to as the 'obligatory point of passage' for knowing and managing the Depot's population (Latour 1993: 43-49). The 'success' of the Wassermann test had helped ripen conditions for the embrace of new laboratory tools which would do, for instance, for the elusive problem of the mentally defective what Wassermann had done for the congenital syphilitic: provide a practical means of giving certainty and visibility to its presence and hence rendering 'the mentally defective' in practicable form. By 1918, RJA Berry, champion of craniometry, was touting a 'practical method for the early recognition of feeble-mindedness' (Berry and Porteus 1918: 87-91) and, from 1923 to 1925, was applying the tools of his 'psychometric laboratory' to the Depot's population. Of the 140 cases then tested, he would declare 68 to be 'aments', of which '40 ... required permanent institutional care, and the remaining 28 were of the high-grade type from whose numbers the criminal classes are, and were actually recruited' (Berry c1929: 25-6). Shortly thereafter, the 'mentalist' would be supplanted by the educational psychologist. In 1928, KS Cunningham, of the psychology laboratory at the Teacher's College, equipped with intelligence tests, would estimate that 70 to 80 per cent of the Depot's population at any one time exhibited 'Dullness or borderline deficiency' of which 40 to 50 per cent required 'care and training either permanently or for a period of years' (Cunningham in Victorian Government 1928: 12-13). The Departmental Secretary used Cunningham's report to bemoan the fact that 'when these folk reach eighteen or twenty years of age *and their powers for evil have reached their maximum, we must, if they so wish it, cast them adrift from such control as we can at present exercise and let them go*' (Victorian Government 1928: 14, emphasis in original).

Point of arrival

As Garton (2010) has pointed out, despite professional and popular noise around the control of the mentally defective, legislative changes in Victoria—as elsewhere in Australia—which extended the power of governments to do so, were 'meagre'. But 'success', he argued, lay elsewhere, including in practices at the level of institutional incarceration (Garton 2010: 246-

251). In 1927, 13-year old Percy Bartholomew was beaten 'black and blue' by staff at the Depot, as punishment for absconding. His mother, supported by the Society for the Prevention of Cruelty to Children, was referred to Mr Jewell, Member of the Legislative Assembly (MLA), and the result was a government *Inquiry into Punishment Inflicted on Children at the Children's Welfare Department's Receiving Depot*. Under Police Magistrate (PM) D Berham, the Inquiry brought to light the routine use of deprivation and corporal punishment for a wide range of misdemeanours, from bedwetting and 'misbehaving at breakfast' (the punishment book records '3 cuts'), to 'calling Officer Read a bastard' ('9 cuts on the breach'). The main focus was the beating of Bartholomew. MLA Jewell testified as to the severity of the boy's bruising. PM Berham (Victorian Government 1929: Item 1) interrogated him further:

PM Berham: I want to ask you about another matter; what is your opinion of corporal punishment?

MLA Jewell: I do not believe in it, especially on children of that age ... I have reared a family myself and I do not think my children have ever got the strap in their lives.

...

PM Berham: You know that those you have seen there have not had the advantages that your children have had. ... Would you agree that it is more difficult to discipline and rule them than children in a properly ordered home?

MLA Jewell: Yes, I think so.

PM Berham: You know, of course, that their mental type, or even their physical type, is not as good as that of a normal child?

MLA Jewell: No, I suppose that is right.

Recalling Valverde's terms, by the late 1920s, the hand-in-hand 'typing' of children in state care in Victoria and the 'geographicalizing' of their governance had been achieved, and the judge could explain to the liberal-minded that 'those ... there' were not to be judged or acted upon by the moral-ethical standards that would apply to our own 'normal' children (Valverde 1996). The Depot's officers were exonerated.

Conclusion

We began by introducing examples from two recent government inquiries which pivoted around the need to protect children from a range of forms of institutional violence and abuse. We noted the emphasis, in and around these inquiries, on the innocence of those in need of protection. At the same time in Victoria, government authorities were busy legitimising violence against children within the justice system, claiming that, as other-than-innocent and, indeed, not really children at all, *those* juveniles represented exceptions to rules of practice founded on moral-ethical norms to do with the governance of children proper. Drawing on theoretical frameworks which elaborate upon the embeddedness of authoritarianism within the fabric of liberalism, we have sought to expose the work done in the historical and enduring fashioning of the other-than-innocent exception and to show that there is nothing at all exceptional about the kind of argument mounted recently by the Victorian government. In Victoria, children continue to be made vulnerable to forms of authoritarian violence beyond the more readily denounced criminal proclivities of individuals and/or the self-interest of various organisations.

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